

Author: Tim Kuik at MPAA-LA
Date: 7/18/97 5:35 PM
Priority: Normal
TO: Nathan Knight at MPEAA-EC
TO: Nicholas Ware
TO: Lowell B. Strong at MPEAA-SQ
TO: Norman Ouimet at MPAA-CANADA
TO: Ed Pistey
Subject: DVD and licensing entity

----- Message Contents -----

Regional Directors,

Please forward to your staff and country programs.

Kind regards,

Tim

Forward Header

Subject: Re[4]: NBC TV interview regarding DVD zoning
Author: Fritz Attaway at MPAA-DC
Date: 7/18/97 5:45 PM

Here is a short tutorial on the Content Scramble System (CSS) License.
Please pass this on to anyone you think might be interested.

Any entity wishing to use the DVD encryption system developed by Matsushita (MEI) must obtain a license. Right now that license is granted by MEI. Eventually, the licensing function will be performed by a Licensing Entity controlled jointly by licensees.

Both software suppliers (us) and hardware manufacturers (consumer electronics companies [CE] and computer companies [IT]) will use the MEI encryption system, but neither MUST us it. A software supplier is free to put its material on DVD discs unencrypted, and a hardware company is free to produce a device that cannot decrypt an encrypted disc.

The CSS License was developed by and agreed to by "major players" among the three groups -- software, CE and IT. The License, in addition to permitting the licensee to use MEI's patented encryption system, includes certain conditions, mostly on hardware licensees.

Among these conditions:

Attorney Client/Work Product
Outside Counsel's Eyes Only

1. A DVD player may not send a decrypted signal out an analog port unless it is "protected" by Macrovision (or some other process not yet developed). This provides protection against DVD to videocassette copying. However, we all know that this protection is weak. Not all VCRs respond to Macrovision, and it is easy to purchase a Macrovision "scrubber." We hope to improve this situation, at least in the US.

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with legislation, but any legislation is a year or more away at best.

2. A DVD player cannot send a decrypted signal out a digital port -- period. We hope to develop a technical means to insure that a decrypted digital signal can only be sent to a protected device, but the engineers are still working on it.

3. A DVD player must recognize a regional code. The actual language of the License is as follows:

DVD Players shall implement regional code playback controls so that CSS Data are not played back except in accordance with the regional code instructions contained on the prerecorded DVD Disc. DVD Players may play back such data only if the data are coded for playback in the same geographic region for which the DVD Player is itself designated, including coding that provides for playback in multiple regions where one of such regions is the designated region for the DVD Player on which the disk is to be played back. Licensee shall take all steps necessary to ensure that the geographic setting for a DVD Player can only with difficulty be defeated or circumvented using professional equipment or skills.

The definition of the geographic regions is not specified in the CSS License. Rather, the regions have been determined by the DVD Consortium, which is comprised of the Japanese manufacturers of DVD players, in "consultation" with the studios. I do not know, and do not want to know, how or why the regions were determined. I am told that a regional "map" is included in the package of every DVD disc.

The violation of any of these conditions gives rise to a breach of contract claim by MEI or any software licensee which has third-party beneficiary status under the License. A violation by a licensee, or circumvention by a third party, may or may not be prohibited by local law, depending upon what legal protections are available in a particular jurisdiction. Under existing US law, we would have a copyright infringement claim for making unauthorized copies, and a contributory infringement claim against the manufacturer or distributor of circumvention devices. However the latter is encumbered by the Betamax decision -- substantial noninfringing use. We hope to improve our remedies against makers of circumvention devices with WIPO Treaty implementation legislation.

I trust the forgoing is useful. Let me know if you have any questions.

Reply Separator

Subject: Re[3]: NBC TV interview regarding DVD zoning
Author: Tim Kuik at MPAA-LA
Date: 7/15/97 03:56 PM

Fritz,

This matter made me realize that it perhaps would be good for MPAA/MPA executives to have a short memo with talking points regarding DVD and piracy, the licensing entity and zoning, so that we all read from the same page. Because of your involvement you probably are the best placed to draft such talking points. What do you think?

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Best,

Tim

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